

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#4  
05-30-01

Assignee: Health Hero Network, Inc.

Attorney Docket No: HERO-1-1074

Patent No.: 5,601,435

Reel/Frame No.: 9781/0585

Date of Patent: February 11, 1997

Recordation Date: February 26, 1999

Title: METHOD AND APPARATUS FOR INTERACTIVELY MONITORING A  
PHYSIOLOGICAL CONDITION AND FOR INTERACTIVELY PROVIDING HEALTH  
RELATED INFORMATION

REVOCATION AND POWER OF ATTORNEY

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Health Hero Network, Inc., declares in accordance with 37 C.F.R. 3.73 (b) that it is the owner of the entire right, title, and interest in the above-referenced U.S. Patent, as evidenced by the assignment recorded in the Patent and Trademark Office on February 26, 1999, at Reel 9781, Frame 0585. Health Hero Network, Inc., as the assignee in the present U.S. Patent, hereby revokes all previous powers of attorney given and filed in this U.S. Patent application and hereby appoint(s) the firm of Black, Lowe & Graham<sup>PLLC</sup> and Richard T. Black, Washington State Bar No. 20,899 and PTO Reg. No. 40,514; David A. Lowe, Washington State Bar No. 24,453 and PTO Reg. No. 39,281; Lawrence D. Graham, Washington State Bar No. 25,402 and PTO Reg. No. 40,001; and Michael S. Smith, Reg. No. 39, 563; as its attorneys with full power of substitution and revocation to prosecute this U.S. Patent application to issuance, and to transact all business in the United States Patent and Trademark Office connected therewith and to receive the Letters Patent.

Please address all further correspondence relating to this application to:

Michael S. Smith  
Black Lowe & Graham<sup>PLLC</sup>  
816 Second Avenue  
Seattle, Washington 98104

The undersigned is empowered to sign this statement on behalf of the assignee.

Date

April 7, 2000

Name  
Title

Stephen J. Brown  
CEO

# **VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) and 1.27(d)) – SMALL BUSINESS CONCERN**

Application No.: 09/304,446  
 Filing Date: 5/3/99  
 Applicant(s): Stephen J. Brown  
 Title: Method for Conducting an On-Line Bidding Session with Bid Pooling

I hereby declare that I am the owner of, or an official empowered to act on behalf of, the entity identified below:

Name of Concern: **Health Hero Network, Inc.**  
 Address of Concern: **2570 West El Camino Real, Suite 111  
 Mountain View, CA 94040**

I hereby declare that the concern identified above qualifies as a small business concern as defined in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention identified above and described in the application for Letters Patent filed herewith.

If the rights held by the concern identified above are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)


Name:	none	<input type="checkbox"/> Individual
Address:		<input type="checkbox"/> Small Business Concern
		<input type="checkbox"/> Nonprofit Organization

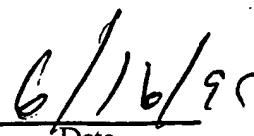
I acknowledge the duty to file, in this application for patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

ASSIGNEE: Health Hero Network, Inc.  
 2570 West El Camino Real, Suite 111  
 Mountain View, CA 94040

Official Authorized to Act on Behalf of Assignee:

Signature:   
 Name: Stephen J. Brown  
 Title: President

  
 Date

## Declaration for Patent Application and Power of Attorney

As a below named inventor, I hereby declare that my residence, post office address, and citizenship are as stated below next to my name, and that I believe I am the original, first and sole inventor (if only one is listed) or an original, first and joint inventor (if plural names are listed) of the subject matter which is claimed and for which a patent is sought on the invention described in the attached application entitled **METHOD FOR CONDUCTING AN ON-LINE BIDDING SESSION WITH BID POOLING.**

First or Sole Inventor:	Full name:	STEPHEN J. BROWN	Citizenship:	U.S.A.	
	Residence:	3324 Woodside Rd., Woodside, CA 94062			
	Postal Address:	same as above			

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a). I claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

### PRIOR FOREIGN APPLICATION(S)

Country	Application Number	Date of Filing	Priority Claimed Under 35 U.S.C. §119
NONE			<input type="checkbox"/> Yes <input type="checkbox"/> No

I claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

### PRIOR U. S. APPLICATION(S)

Application No.	Filing Date	Status			
09/092,604	6/5/98	<input type="checkbox"/> Provisional	<input type="checkbox"/> Patented	<input checked="" type="checkbox"/> Pending	<input type="checkbox"/> Provisional
08/603,131	2/20/96	<input type="checkbox"/> Provisional	<input checked="" type="checkbox"/> Patented	<input type="checkbox"/> Pending	<input type="checkbox"/> Provisional

I hereby appoint Thomas J. McFarlane, Reg. No. 39,299, Marek Alboszta, Reg. No. 39,894 as my agents with full power of substitution to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith. Direct all correspondence to:

**Marek Alboszta**  
 426 Lowell Avenue  
 Palo Alto, CA 94301-3813  
 Telephone: 650-321-6630  
 Fax: 650-321-1621.

The attorney docket number for this case is: **RYA-110/CIP/CON.**

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Title 18, §1001 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

INVENTOR SIGNATURE(S)

STEPHEN J. BROWN

Date

4/27/99

calling the Office of Enrollment and Discipline (703) 306-4097; or, through the Patent Assistance Center toll free number, 1(800)786-9199.

**Examiner Note:**

This form paragraph is to be used ONLY after ensuring that the named representative is not registered with the Office. A PALM inquiry should be first made and if no listing is given, the Office of Enrollment and Discipline should be contacted to determine the current "recognition" status of the individual named by the applicant in a "power of attorney." If the named individual is NOT registered or otherwise recognized by the Office, the correspondence address on the face of the file should be promptly changed to that of the first named inventor unless applicant specifically provides a different "correspondence address." A copy of the Office communication incorporating this form paragraph should also be mailed to the unregistered individual named by the applicant in the "power of attorney." If desired, you may include with your communication, a list of the registered practitioners from applicant's zip code copied from the above noted publication which should be available in the Director's Office.

In the event of a need to file a change in the power of attorney in a plurality of applications or patents of a common assignee or inventive entity, a single, original paper may be used provided that a reproduction of this original paper is supplied in each of the affected applications or patents. The copy of the original paper must identify in which application or patent the original paper is located and authorize the public to inspect and copy the original paper in the event one of the applications containing a copy matures into or is a patent, and the application containing the original paper is pending or has become abandoned. See MPEP § 601.03. See MPEP § 201.06(c) for change in the power of attorney in continuation or divisional applications filed under 37 CFR 1.53(b). See MPEP § 403 for the addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number. For a representative of a requester of reexamination see MPEP § 2213.

**37 CFR 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.**

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or

uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

37 CFR 10.18(a) emphasizes that every paper filed by a practitioner must be personally signed by the practitioner, except those required to be signed by the applicant or party. 37 CFR 10.18(b) provides that, by presenting any paper to the Office, the party presenting such paper (whether a practitioner or nonpractitioner) is: (1) certifying that the statements made therein are subject to the declaration clause of 37 CFR 1.68; and (2) making the certifications required for papers filed in a federal court under Rule 11(b) of the Federal Rules of Civil Procedure. See MPEP § 410. 37 CFR 10.18(d) provides that any practitioner violating the provisions of 37 CFR 10.18 may also be subject to disciplinary action (see 37 CFR 10.23(c)(15)), thus clarifying that a practitioner may be subject to disciplinary action in lieu of, or in addition to, the sanctions set forth in 37 CFR 10.18(c)

## ASSIGNMENT

THIS ASSIGNMENT, by

**STEPHEN J. BROWN**

(hereinafter referred to as the Assignor), residing at **Woodside, California** witnesseth:

WHEREAS, said Assignor has invented certain new and useful improvements in

### **METHOD FOR CONDUCTING AN ON-LINE BIDDING SESSION WITH BID POOLING**

for which application no. 09/304,446 filed 5/3/99 for Letters Patent

WHEREAS,

**Health Hero Network, Inc.**

(hereinafter referred to as the Assignee), a body having corporate powers under the laws of the state of **CALIFORNIA, MOUNTAIN VIEW, CALIFORNIA 94040**, is desirous of obtaining the entire right, title and interest in and to said inventions and said application for Letters Patent, and in and to any Letters Patent, United States or foreign, to be obtained therefor and thereon;

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and for other good and sufficient considerations, the receipt of which is hereby acknowledged:

1. The Assignor has sold, assigned, transferred and set over, and does hereby sell, assign, transfer and set over unto said Assignee, the entire right, title and interest in, to and under: said inventions; said application for Letters Patent; any Letters Patent which may be granted for said inventions in the United States of America and any foreign country; any division, continuation, and continuation-in-part of said application; any reissue or extension of said Letters Patent; and all rights under the International Convention for the Protection of Industrial Property; said right, title and interest to be held and enjoyed by said Assignee for its own use and behoof to the full end of the term for which Letters Patent may be granted, as fully and entirely as the same would have been held and enjoyed by the Assignor, had this sale and assignment not been made.

2. Said Assignor hereby warrants and represents that, at the time of execution and delivery of these presents, said Assignor is the sole and lawful owner of the entire right, title and interest in and to said inventions and said application for Letters Patent, and that the same has not entered into any assignment, contract or understanding in conflict herewith.

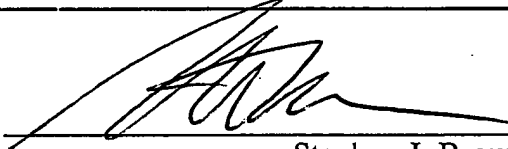
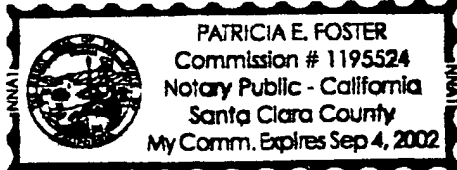

3. Said Assignor hereby covenants and agrees to assist and cooperate with said Assignee, whereby said Assignee may enjoy to the fullest extent said right, title and interest herein conveyed, provided, however, that the entire expense which may be incurred by said Assignor in lending such assistance and cooperation be paid by Assignee. Such cooperation shall include: (a) prompt execution of all papers (prepared at the expense of Assignee) which are deemed necessary or desirable by Assignee to perfect said right, title and interest herein conveyed, (b) prompt execution of all petitions, oaths, specifications, declarations and other papers (prepared at the expense of Assignee) which are deemed necessary or desirable by Assignee for filing or prosecuting in the United States or any foreign country said application, any application which is a division, continuation, or continuation-in-part of said application, any reissue application for any Letters Patent granted on said application, or for any interference proceeding involving said application or

Letters Patent granted thereon; and (c) prompt assistance and cooperation in the prosecution of all legal proceedings involving said inventions, said application, or Letters Patent granted thereon, including oppositions, cancellation proceedings, priority contests, public use proceedings and court actions.

4. The terms, covenants and conditions of this Assignment shall inure to the benefit of said Assignee, its successors, assigns and/or other legal representatives, and shall be binding upon said Assignor, his heirs, legal representatives and assigns.

5. Said Assignor hereby requests the Commissioner of Patents and Trademarks to issue said Letters Patent of the United States to said Assignee as the assignee of said inventions.

IN WITNESS WHEREOF said Assignor has executed and delivered this instrument on the date noted below.

Date: <u>26-july-1999</u>	 _____ Stephen J. Brown
State: <u>California</u>	County: <u>Santa Clara</u>
Subscribed and sworn to before me on this <u>26<sup>th</sup></u> day of <u>July</u> , 19 <u>99</u>	
	 _____ Notary Public